

## Tennessee Valley Authority

## § 1311.2

(8) Coordination of the proposed action within TVA and with other Federal, State, and local agencies;

(9) Legal review; and

(10) Administrative overheads associated with the transaction.

(c) *Assessment of charge when actual administrative costs significantly exceed established range.* When the responsible land manager determines that the actual administrative costs are expected to significantly exceed the range of costs established in paragraph (a) of this section, such manager shall not proceed with the TVA action until agreement is reached on payment of a charge calculated to cover TVA's actual administrative costs.

(d) *Quota deer hunt and turkey hunt application fees.* A fee for each person in the amount prescribed by the responsible land manager must accompany the complete application form for a quota deer hunt and turkey hunt permit. Applications will not be processed unless accompanied by the correct fee amount. No refunds will be made to unsuccessful applicants, except that fees received after the application due date will be refunded.

(e) *Additional charges.* In addition to the charges assessed under these regulations, TVA may impose a charge in connection with environmental reviews or other environmental investigations it conducts under its policies or procedures implementing the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

### **PART 1311—INTERGOVERNMENTAL REVIEW OF TENNESSEE VALLEY AUTHORITY FEDERAL FINANCIAL ASSISTANCE AND DIRECT FEDERAL DEVELOPMENT PROGRAMS AND ACTIVITIES**

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AUTHORITY: Tennessee Valley Authority Act of 1933, 48 Stat. 58, as amended, 16 U.S.C. 831-831dd (1976; Supp. V, 1981); E. O. 12372, July 14, 1982 (47 FR 30,959), amended April 8, 1983 (48 FR 15,887); sec. 401 of the Intergovernmental Cooperation Act of 1968, as amended.

SOURCE: 48 FR 29399, June 24, 1983, unless otherwise noted.

#### **§ 1311.1 What is the purpose of these regulations?**

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982, and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and are intended to assist TVA in carrying out its responsibilities under the TVA Act.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state processes and on state, areawide, regional, and local coordination for review of proposed federal financial assistance and direct federal development.

(c) These regulations are intended to aid the internal management of TVA, and are not intended to create any right or benefit enforceable at law by a party against TVA or its officers.

#### **§ 1311.2 What definitions apply to these regulations?**

TVA means the Tennessee Valley Authority, a wholly owned corporation and independent instrumentality of the United States.

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*Order* means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983, and titled "Intergovernmental Review of Federal Programs."

*State* means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

#### **§ 1311.3 What programs and activities of TVA are subject to these regulations?**

TVA publishes in the FEDERAL REGISTER a list of TVA's federal financial assistance and direct federal development programs and activities that are subject to these regulations.

#### **§ 1311.4 [Reserved]**

#### **§ 1311.5 What is TVA's obligation with respect to federal interagency coordination?**

TVA, to the extent practicable, consults with and seeks advice from all other substantially affected federal departments and agencies in an effort to assure full coordination between such agencies and TVA regarding programs and activities covered under these regulations.

#### **§ 1311.6 What procedures apply to the selection of programs and activities under these regulations?**

(a) A state may select any program or activity published in the FEDERAL REGISTER in accordance with § 1311.3 of this part for intergovernmental review under these regulations. Each state, before selecting programs and activities, shall consult with local elected officials.

(b) Each state that adopts a process shall notify TVA of the programs and activities selected for that process.

(c) A state may notify TVA of changes in its selections at any time. For each change, the state shall submit to TVA an assurance that the state has consulted with local elected officials regarding the change. TVA may establish deadlines by which states are required to inform TVA of changes in their program selections.

(d) TVA uses a state's process as soon as feasible, depending on individual

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programs and activities, after TVA is notified of the states selections.

#### **§ 1311.7 How does TVA communicate with state, regional, and local officials concerning TVA's programs and activities?**

(a) For those programs and activities covered by a state process under § 1311.6, TVA, to the extent permitted by law:

(1) Uses the official state process to determine views of state and local elected officials, and

(2) Communicates with state and local elected officials, through the official state process, as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(b) TVA provides notice to directly affected state, areawide, regional, and local entities in a state of proposed Federal financial assistance or direct federal development if:

(1) The state has not adopted a process under the Order;

(2) The assistance or development involves a program or activity not selected for the state process; or

(3) The particular government entity is not part of or involved in the state process.

This notice may be made by a publication widely available in the potentially affected area or other appropriate means, which TVA in its discretion deems appropriate.

#### **§ 1311.8 How does TVA provide states an opportunity to comment on proposed federal financial assistance and direct federal development?**

(a) Except in unusual circumstances, TVA gives state processes or directly affected state, areawide, regional, and local officials and entities:

(1) [Reserved]

(2) At least 60 days from the date established by TVA to comment on proposed direct Federal development or federal financial assistance.

(b) This section also applies to comments in cases in which the review, coordination, and communication with TVA have been delegated or when TVA provides notice directly to potentially affected state, areawide, regional, or local entities under § 1311.7(b).

**§ 1311.9 How does TVA receive and respond to comments?**

(a) TVA follows the procedures in § 1311.10 if:

(1) A state office or official is designated to act as a single point of contact between a state process and all federal agencies, and

(2) That office or official transmits a state process recommendation for a program selected under § 1311.6.

(b)(1) The single point of contact is not obligated to transmit comments from state, areawide, regional, or local officials and entities where there is no state process recommendation; however, these officials or entities may submit comments directly to TVA for TVA's consideration.

(2) If a state process recommendation is transmitted by a single point of contact, all comments from state, areawide, regional, and local officials and entities that differ from it must also be transmitted.

(c) If a state has not established a process, or is unable to submit a state process recommendation, state, areawide, regional, and local officials and entities may submit comments to TVA.

(d) If a program or activity is not selected for a state process, state, areawide, regional, and local officials and entities may submit comments to TVA. In addition, if a state process recommendation for a nonselected program or activity is transmitted to TVA by the single point of contact, TVA follows the procedures of § 1311.10 of this part.

(e) TVA considers comments which do not constitute a state process recommendation submitted under these regulations and for which TVA is not required to apply the procedures of § 1311.10 of this part, when such comments are provided by a single point of contact or directly to TVA by a state, areawide, regional, or local government.

**§ 1311.10 How does TVA make efforts to accommodate intergovernmental viewpoints?**

(a) If a state process provides a state process recommendation to TVA through its single point contact, TVA either:

(1) Accepts the recommendation;

(2) Reaches a mutually agreeable solution with the state process; or

(3) Provides the single point of contact (including any regional or local office delegated a review and comment role by the state process) with written explanation of the decision in such form as TVA in its discretion deems appropriate. TVA may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunications, meeting with the single point of contact, and, as appropriate, other interested officials or offices, or other means.

(b) In any explanation under paragraph (a)(3) of this section, TVA informs the single point of contact that:

(1) TVA will not implement its decision for at least 10 days after the single point of contact receives the explanation; or

(2) TVA's General Manager has reviewed the decision and determined that, because of unusual circumstances, the waiting period of at least 10 days is not feasible.

(c) For purposes of computing the waiting period under paragraph (b)(1) of this section, the explanation is presumed to have been received five days after the date of mailing of such notification.

**§ 1311.11 What are TVA's obligations in interstate situations?**

(a) TVA is responsible for:

(1) Identifying proposed Federal financial assistance and direct Federal development that potentially impact on interstate areas;

(2) Notifying appropriate officials and entities in states which have adopted a process and which select TVA's program or activity;

(3) In accordance with § 1311.7(b), making efforts to identify and notify the affected state, areawide, regional and local officials and entities in those states that have not adopted a process under the Order or do not select TVA's program or activity;

(4) Responding pursuant to § 1311.10 of this part if TVA receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which

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the review, coordination, and communication with TVA have been delegated.

(b) TVA uses the procedures in § 1311.10 if a state process provides a state process recommendation to TVA through a single point of contact.

## § 1311.12 [Reserved]

### § 1311.13 May TVA waive any provision of these regulations?

In an emergency, TVA may waive any provision of these regulations.

## PART 1312—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

### Sec.

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1312.20 Public awareness programs.

1312.21 Surveys and schedules.

AUTHORITY: Pub. L. 96-95, 93 Stat. 721, as amended, 102 Stat. 2983 (16 U.S.C. 470aa-mm) (Sec. 10(a)). Related Authority: Pub. L. 59-209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86-523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470a-t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95-341, 92 Stat. 469 (42 U.S.C. 1996).

SOURCE: 49 FR 1028, Jan. 6, 1984, unless otherwise noted.

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### § 1312.1 Purpose.

(a) The regulations in this part implement provisions of the Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa-mm) by establishing the uniform definitions, standards, and procedures to be followed by all Federal land managers in providing protection for archaeological resources, located on public lands and Indian lands of the United States. These regulations enable Federal land managers to protect archaeological resources, taking into consideration provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996), through permits authorizing excavation and/or removal of archaeological resources, through civil penalties for unauthorized excavation and/or removal, through provisions for the preservation of archaeological resource collections and data, and through provisions for ensuring confidentiality of information about archaeological resources when disclosure would threaten the archaeological resources.

(b) The regulations in this part do not impose any new restrictions on activities permitted under other laws, authorities, and regulations relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

[49 FR 1028, Jan. 6, 1984, as amended at 60 FR 5259, 5260, Jan. 26, 1995]

### § 1312.2 Authority.

(a) The regulations in this part are promulgated pursuant to section 10(a) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ii), which requires that the Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority jointly develop uniform rules and regulations for carrying out the purposes of the Act.

(b) In addition to the regulations in this part, section 10(b) of the Act (16 U.S.C. 470ii) provides that each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations in this part, as may be necessary for carrying out the purposes of the Act.